

**UNITED STATES DISTRICT COURT**  
for the

Eastern District of North Carolina

United States of America	)	
v.	)	
ANTONIO JERMAINE SMITH	)	Case No: 7:06-CR-126-1F
_____	)	USM No: 70206-056
Date of Previous Judgment: June 13, 2007	)	
(Use Date of Last Amended Judgment if Applicable)	)	Defendant's Attorney Thomas P. McNamara

**Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)**

Upon motion of the defendant under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and the court having considered such motion,

**IT IS ORDERED** that the motion is:

DENIED.  GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 73 months is reduced to 60 months.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

**I. COURT DETERMINATION OF GUIDELINE RANGE** (Prior to Any Departures)

Previous Offense Level:	<u>27</u>	Amended Offense Level:	<u>25</u>
Criminal History Category:	<u>III</u>	Criminal History Category:	<u>III</u>
Previous Guideline Range:	<u>87</u> to <u>108</u> months	Amended Guideline Range:	<u>70</u> to <u>87</u> months

**II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE**

The reduced sentence is within the amended guideline range.  
 The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction.

Other (explain):

**III. ADDITIONAL COMMENTS**

A comparable reduction from the bottom of the guideline range would result in a sentence of 59 months; however, due to the statutory impact in Count 2, the sentence must not be less than 60 months.

Except as provided above, all provisions of the judgment dated June 13, 2007  
shall remain in effect.

**IT IS SO ORDERED.**

Order Date: 8/21/08

  
\_\_\_\_\_  
Judge's signature

Effective Date: \_\_\_\_\_  
(if different from order date)

\_\_\_\_\_  
James C. Fox, Senior U.S. District Judge  
Printed name and title